



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives adopted the free conference committee report on **S.208**, the **PUBLIC SERVICE COMMISSION REFORM** legislation. The report was also adopted by the Senate and the bill was ratified. This legislation establishes new provisions regarding **qualifications, screening, and terms of membership for the Public Service Commission**, the seven-member body elected by the General Assembly to regulate South Carolina's public utilities. The legislation requires a candidate for the PSC to have a college degree and a background of substantial duration and an expertise in at least one of the following: energy issues; telecommunication issues; consumer protection and advocacy issues; water and wastewater issues; finance, economics, and statistics; accounting; engineering; or law. Commissioners elected in 2004 are exempted from the educational and background requirements. The Review Committee may waive the background requirements with a three-fourths vote. The bill provides for the election of commissioners in staggered terms. No member of the General Assembly or member of his immediate family shall be elected to the commission while the member is serving in the General Assembly, nor for a period of four years after the member either ceases to be a member of the General Assembly or fails to file for election. The bill restricts a candidate's seeking of a pledge of support from a member of the General Assembly or the offering of such a pledge until after the report on the qualifications of nominees has formally released to the General Assembly.

The legislation establishes the **Office of Regulatory Staff (ORS)**, a separate state agency charged with representing the public interest in all proceedings before the commission. The Executive Director of the ORS must be an attorney with at least eight years experience and be nominated by the Review Committee and appointed by the Governor for a six-year term. The Consumer Advocate's duties to represent consumers in public utility matters are to be eliminated as of January 1, 2005.

The legislation establishes the **State Regulation of Public Utilities Review Committee**. Its duties include nominating candidates for the commission, nominating a candidate to serve as executive director of the Office of Regulatory Staff and conducting annual performance reviews of the commission and the Office of Regulatory Staff.

The legislation prohibits **ex parte communications**: No person may communicate regarding any issue that is or can reasonably be expected to become an issue in any proceeding with any person without notice and opportunity for all parties to participate in the communication. A violation would be a misdemeanor punishable by \$250 or up to 6 months prison. Exempt communications are listed. A person can communicate regarding any fact law, or other matter that is or can reasonably be expected to become an issue in a proceeding for the purposes of an allowable *ex parte* communication briefing if: (1) the Executive Director of ORS attends and files a certification that the requirements of this section are met; (2) every person present files statement with the Executive Director within forty-eight hours summarizing the discussion; (3) every person present files certification with

Executive Director that no commitment, predetermination, or prediction was requested or given; and (4) every commissioner or commission employee present certifies that they will grant every other person requesting a briefing on the same subject matter similar access and opportunity. Initial briefings must be held twenty days prior to the hearing on the matter. Responsive briefings may be held ten days prior to the hearing.

Under the legislation, commissioners are held accountable to the Code of Judicial Conduct. The legislation requires commissioners devote full time to their duties as commissioners. The legislation requires commissioners and employees to attend six hours of continuing education on ethics and the Administrative Procedures Act each year. The legislation prohibits commissioners from being employed or retained by a public utility for one year after serving.

The House approved and sent to the Senate **H.4455**, a bill regarding the **TRANSFER OF ALL PRESCRIPTION REFILLS BETWEEN LICENSED PHARMACIES**. Currently, state law allows a pharmacy in S.C. to transfer prescription information to another pharmacy in the state for one refill of a medication. This bill would allow the transfer of all remaining refills for a prescription between any licensed pharmacies, including pharmacies located in other states. The transferring pharmacist would be required to void any remaining refills and the receiving pharmacist would be authorized to dispense all remaining refills on the original prescription.

The House approved and sent to the Senate **H.4397**. The purpose of this bill is to correct a drafting error in the **ANESTHESIOLOGISTS' ASSISTANT PRACTICE ACT**. Under this act, "Sponsoring anesthesiologist" means the physician specialist in anesthesiology who signs the anesthesiologist's assistant's application for licensure. The act should specify that it is the "sponsoring physician," not just a "supervising physician" who agrees to be responsible for a written practice protocol that delineates the service that the anesthesiologist's assistant is authorized to provide. An anesthesiologist assistant is sponsored by one physician but may be supervised by more than one physician. The way the act currently reads requires every physician who supervises an anesthesiologist assistant to be responsible for the protocol. The proposed change clarifies that it is just the "sponsoring physician" who is responsible for the protocol. The bill also adds the American Osteopathic Association as a recognized entity for approval of Anesthesiology programs. Currently, the Accreditation Committee on Graduate Medical Education is the only named entity. The bill also allows a Board of Medical Examiners designee to review an anesthesiologist assistant applicant's qualifications for licensure. This change will allow Board members to designate specialists on the Anesthesiologist Assistants' Committee to review an applicant's qualifications.

The House approved and sent to the Senate **H.3400**, a bill to **DISAVOW ANY CALLS FOR A FEDERAL CONSTITUTIONAL CONVENTION BY THE SOUTH CAROLINA GENERAL ASSEMBLY**. The legislation repeals Joint Resolution 775 of 1976, which called on the United States Congress to balance the federal budget through submitting an appropriate amendment to the states for ratification or in the alternative to call a constitutional convention for this purpose. The legislation

disavows any other calls for a constitutional convention, including, but not limited to S.1024 of 1978, by any means expressed.

The House approved and sent to the Senate H.4709, a bill revising **BINGO LICENSURE FOR ORGANIZATIONS**. The bill reduces the minimum time for an organization to have been active in this state from at least three to at least two years in order to be eligible for a Bingo license.

The House concurred in Senate amendments to H.4016 and enrolled the bill for ratification. The legislation enacts the "**COLLEGE OF CHARLESTON ACADEMIC AND ADMINISTRATIVE FACILITIES BOND ACT.**"

The House did not concur in Senate amendments to H.3900, a bill providing for the **VENTURE CAPITAL INVESTMENT ACT** and other matters.

HOUSE COMMITTEE ACTION

JUDICIARY

The full House Judiciary Committee met on Tuesday, February 10, and reported out three bills.

The committee gave a report of favorable with amendment on H.3482, a bill revising provisions for **LAWFULLY SECURED HANDGUNS**. The bill revises exceptions to the prohibition against carrying a handgun. The legislation provides that a person may carry a handgun in any home or on real property if the person has the permission of the owner or person in legal possession or control of the home/property. The bill authorizes possession of a handgun for the owner or the person in legal possession/control of a fixed place of business, while at the fixed place of business. Handgun possession is authorized for the employee of such a fixed place of business (except for a business selling alcoholic liquors, beers or wines for on-premises consumption) while at the place of business; however, the employee may exercise this privilege only after acquiring a concealed weapon permit. The bill authorizes handgun possession for a person engaged in firearms-related activities while on the premises of a fixed place of business which conducts, as a regular course of its business, activities related to sale, repair, pawn, firearms training, or use of firearms, unless the premises is posted with a sign limiting possession of firearms to holders of concealed weapons permits. The legislation authorizes the securing of a handgun in a closed container secured by an integral fastener and transported in the luggage compartment of a vehicle. The legislation clarifies that it is not a violation if a glove compartment, console, or trunk is opened in the presence of a law enforcement officer for the sole purpose of retrieving a driver's license, registration, or proof of insurance. The bill provides an exception for a person while transferring a handgun directly from or to a vehicle and a location where one may legally possess the handgun.

The committee gave a favorable report on H.3762, a bill **AUTHORIZING A TRIAL JUDGE TO WAIVE CERTAIN INMATE WORK RELEASE NOTIFICATIONS**. This bill authorizes a trial judge to waive his right to receive notification of the pending release of inmates selected to participate in work release for good character and behavior.

The committee gave a report of favorable with amendment on H.4454, a bill addressing the **AUTHORITY TO CALL FOR REFERENDA REGARDING LOCAL OR REGIONAL HOSPITALS GOVERNED BY POLITICAL SUBDIVISIONS**. This bill provides that for certain political subdivisions of this state that were created to operate hospitals on a local or regional basis, the ability to call for or conduct advisory or binding referenda regarding their activities shall rest solely with the governing board of the political subdivision or a governmental body which appoint the board, including a county legislative delegation.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on Tuesday, February 10, and gave a report of favorable with amendment on H.4656, a bill that specifically exempts **BUNDLED SERVICES AND CONTRACT OFFERINGS MADE BY TELECOMMUNICATIONS CARRIERS** from regulation by the Public Service Commission. The legislation establishes consumer protection provisions under which a consumer directs any complaints concerning these unregulated services to the Public Service Commission and the PSC is charged with facilitating a resolution between the customer and the company. The legislation makes other revisions regarding the regulation of telecommunication services. Under the bill, telecommunications carriers that elect to have alternative regulation are required to afford the PSC access to the carrier's contracts with individuals and other telecommunications carriers. The bill provides a time limit for the PSC to resolve complaints of abuse of market position from a local exchange carrier's customers.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee reported favorable with amendment on S.104, regarding the practice of tattooing.

South Carolina law currently provides that it is unlawful for a person to tattoo any part of the body of another person. The only exception is for a licensed physician if, in the doctor's medical opinion, it is necessary to tattoo a person when performing cosmetic or reconstructive surgery.

As reported by the Committee, this bill **LEGALIZES THE PRACTICE OF TATTOOING BY PERSONS WHO ARE NOT PHYSICIANS**. It mandates the use of sterile surgical techniques for tattooing and prohibits tattooing of the head, face or neck. The bill also makes it unlawful for anyone to perform tattooing on a person:

- under the age of 18;
- impaired by drugs or alcohol, or
- with a skin rash, pimples, boils, keloids, sunburn, infections or unhealthy conditions at the tattoo site.

Under the provisions of the bill, every tattoo artist in South Carolina will be required to register with the Department of Health and Environmental Control (DHEC). The bill requires that a tattoo artist be at least 21 years old, comply with OSHA guidelines, have a current Red Cross First Aid Certification and CPR certification, and annually complete a course in blood borne pathogens and tattooing infection control approved by DHEC. The bill requires that a tattoo artist must conspicuously display these certifications in the facility where he works. The bill requires that all tattoo artists use only single-use, disposable needles.

The bill also clarifies the authority of a physician or surgeon to delegate the task of tattooing a patient to a member of the doctor's staff and clarifies a doctor's authority to tattoo a patient in situations where it might not be strictly necessary, but is appropriate to restore a natural appearance.

The bill provides that a tattoo facility may only provide tattooing and may not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing other than tattooing.

The bill requires DHEC to establish standards and promulgate regulations for tattoo artists and tattoo facilities. It gives DHEC the authority to conduct inspections of tattoo facilities and DHEC may revoke, suspend, or refuse to issue or renew a tattoo permit for violation of the law.

Under the bill, in order for a tattoo facility to receive a DHEC license, the operator must:

- obtain a copy of the DHEC sterilization, sanitation and safety standards for tattoo facilities and commit to meet these standards;
- pass an initial facility inspection and pay a licensure fee to be set by DHEC;
- have a certified copy of an ordinance passed by the local governing body where the business will be located approving the tattooing of persons within its jurisdiction;
- display the facility license and notice of blood donor disqualification regulations.

The bill specifies that all fees and monetary penalties collected must be used exclusively to support the tattoo licensure program. The bill authorizes DHEC to charge an additional fee, if necessary, to cover the cost of on-site facility inspections.

The bill provides that a person found in violation of any of these provisions is guilty of a misdemeanor and must be fined up to \$2500 or imprisoned up to one year, or

both. Money collected from these fines must be remitted to DHEC and used to offset the cost of administering the tattoo regulation program.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.4756 *HUNTING SEASON FOR SQUIRREL* Rep. Jennings

This bill extends the hunting season for squirrel in Game Zone 5.

EDUCATION AND PUBLIC WORKS

H.4730 *MIDLANDS TECHNICAL COLLEGE* Rep. Cotty

This bill provides for the powers and duties of the Midlands Technical College Commission for purposes of developing the Northeast Campus. The bill also provides for the creation, powers, and duties of the Midlands Technical College Enterprise Campus Authority (the Authority). The purpose of the Authority is to provide for the management, development, and operation of the Enterprise Campus.

H.4740 *S.C. SAFE ROUTES TO SCHOOLS ACT* Rep. Miller

This bill requires municipal and county governing bodies to work with school districts in their jurisdiction to identify barriers and hazards to children walking or bicycling to and from school. The bill authorizes counties, municipalities, and districts to develop plans for funding improvements to reduce such barriers and hazards. The bill requires all school districts statewide to establish a Safe Routes to School Coordinating Committee and authorizes schools within the district to establish a Safe Routes to School Team, to help carry out the purposes of the bill. The bill also designates the first Wednesday of October of each year as "Walk or Bicycle with Your Child to School Day."

H.4745 *SELF-DEFENSE INSTRUCTION IN SCHOOLS* Rep. F.N. Smith

This bill requires the State Board of Education to provide for public schools in the state to train students to defend themselves against potential kidnappers, abductors, and predators.

H.4758 *CAROLINA PANTHERS LICENSE PLATES* Rep. Richardson

This bill authorizes and provides for the issuance of Carolina Panthers special license plates.

JUDICIARY

S.589 REMOVAL OF A GUARDIAN AD LITEM Sen. Mescher

This bill provides that the South Carolina Guardian Ad Litem Program has standing to petition the family court for the removal of a guardian ad litem for any of the following reasons: (1) malfeasance; (2) misfeasance; (3) incompetency; (4) conflicts of interest; (5) misconduct; (6) persistent neglect of duty; (7) incapacity; or (8) a knowing and wilful violation of the program's policies or procedures. In ruling upon the petition, the judge shall act in the best interest of the child in determining whether to remove the guardian. No attorney employed or compensated by or otherwise under contract with the Guardian Ad Litem Program may represent a guardian in a removal action filed by the program. Regardless of the indigency of the guardian, the court must appoint an attorney to represent the guardian in a removal action upon the guardian's request.

S.763 SOCIAL SECURITY NUMBERS WITHHELD FROM THE PUBLIC ON VOTER REGISTRATION APPLICATIONS Sen. Ravenel

This bill provides that a social security number required in a voter registration application must not be open to public inspection.

H.4720 "UNIFORM ELECTRONIC TRANSACTIONS ACT" Rep. Harrison

This bill enacts the "Uniform Electronic Transactions Act." The legislation provides for: definitions, legal effect and enforceability of an electronic record and signature; changes or errors in transmission of an electronic record; compliance of an electronic record or signature with other laws affecting validity or retention or receipt of a record or signature; use of electronic records by governmental agencies; promulgation of regulations by the Budget and Control Board to enhance the utilization of electronic records and signatures; and development by the Secretary of State of model procedures and promulgation of regulations for secure electronic transactions, including licensing of third parties; to make the Computer Crime Act applicable to the Uniform Electronic Transactions Act. The legislation also repeals the South Carolina Electronic Commerce Act.

H.4721 THEFT OF SERVICE Rep. Edge

This bill provides for punitive damages when a person, with intent to avoid payment for a service rendered, knowingly secures performance of the service by deception, threat, or false token or by agreeing to provide compensation and failing to make payment after receiving a demand for payment.

H.4734 NOMINATION OF JUDICIAL CANDIDATES Rep. Howard

This bill revises the Judicial Merit Selection Commission's process for nominating judicial candidates from the nomination of three candidates to the release of a list of all qualified candidates to the General Assembly.

H.4739 STATE AGENCIES NOT TO PROVIDE GOODS AND SERVICES IN COMPETITION WITH PRIVATE BUSINESS Rep. Toole

This bill provides that it is the public policy of this state that state agencies do not provide goods and services in competition with private business. The legislation provides definitions and establishes requirements necessary for contravening this policy.

S.390 CHILDREN'S TRUST FUND EXPENDITURES Sen. Hayes

This bill removes the limitation on the amount of Children's Trust Fund revenues which may be disbursed. The legislation allows the fund's board to award grants to programs that enhance or promote the adoption of special needs children in state custody.

S.658 TERMS OF MUNICIPAL JUDGES Sen. Alexander

This bill provides that a municipal judge is to serve for a term set by the council of the municipality of not less than two years but not to exceed four years.

H.4749 PETITIONS SEEKING TERMINATION OF PARENTAL RIGHTS FILED BY THE DEPARTMENT OF SOCIAL SERVICES Rep. Leach

This bill revises provisions specifying parties who may file a petition seeking termination of parental rights, so as to provide that the Department of Social Services may file such a petition without first seeking approval for a change in the child's permanency plan or placement plan.

LABOR, COMMERCE AND INDUSTRY

H.4737 MANUFACTURED HOUSING LICENSURE EXCEPTION FOR REAL ESTATE BROKERS/AGENTS Rep. Duncan

This bill provides that a manufactured housing license is not required for a licensed real estate agent or licensed real estate broker who negotiates for sale or sells a manufactured home when the sales activity involving the sale of a manufactured home involves the common sale of real estate upon which the home is attached, and the real estate and manufactured home are to be and are conveyed in the same transaction.

H.4738 "SOUTH CAROLINA INTERAGENCY COOPERATION ACT"

Rep. Duncan

This bill enacts the South Carolina Interagency Cooperation Act so as to allow applications for a license or permit from a state agency requiring action by more than one state agency for processing to be filed with the primary licensing agency with that agency simultaneously filing the application with the affected agencies with processing times for these multiple applications to run concurrently.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4722 CERTIFIED INDUSTRIAL HYGIENE AND CERTIFIED SAFETY PROFESSION TITLE PROTECTION ACT Rep. Cato

This bill prohibits a person from wilfully practicing or offering to practice as a certified industrial hygienist, or holding himself out in any way as a certified industrial hygienist, unless that person is certified as an industrial hygienist by the American Board of Industrial Hygiene.

The bill also prohibits a person from wilfully practicing or offering to practice as a certified safety professional, or holding himself out in any way as a certified safety professional, unless that person is certified as a safety professional by the Board of Certified Safety Professionals. The bill provides criminal penalties for violation of these provisions.

H.4731 FUNERAL PROCESSIONS Rep. Howard

This bill provides duties and directives for operators of vehicles in a funeral procession and also for operators of vehicles which are not part of the procession.

H.4732 USE OF EMERGENCY ROOMS Rep. Davenport

This joint resolution establishes a Task Force on Emergency Room Diversion to be convened by the Department of Health and Environmental Control (DHEC), charged to develop a plan for alternatives for persons who currently use emergency rooms for non-emergency health services. The resolution requires the task force to submit a plan and budget by January 2005, and requires DHEC to undertake a pilot project implementing recommendations of the task force.

H.4733 ASBESTOS ABATEMENT Rep. Davenport

For purposes of the criteria for issuance of asbestos abatement licenses, this bill revises the definition of "asbestos abatement entity" and "asbestos project." The bill also deletes certain provisions establishing licensure fees and authorizes DHEC to establish such fees in regulation sufficient to cover reasonable costs of administering the asbestos program. The bill also increases from one thousand dollars to ten thousand dollars, the maximum civil penalty (per violation) for violations of asbestos abatement provisions.

WAYS AND MEANS

H.4719 ANNUAL LEAVE FOR TERI PROGRAM PARTICIPANTS Rep. Cooper

This bill postpones payment for unused annual leave to TERI participants until the participant leaves state employment. The bill further provides that unused leave is not added in the calculation of the average final compensation used to determine the retirement benefits of an employee entering the TERI Program. Under the provisions of the bill, the average final compensation of participants who began the program after June 30, 2004, is recalculated upon termination of employment and the average compensation amount must be increased by an amount up to and including forty-five days' termination pay for unused annual leave received by the member at termination of employment, divided by three. The participant's benefit will then be calculated utilizing the recalculated average final compensation, and the participant's service credit, including sick leave, as of the date the participant began the program, plus any cost of living increases declared during the program period

with respect to the amount of the participant's deferred program benefit. The bill also provides for a similar recalculation and redetermination for a benefit paid to the survivor of a deceased TERI participant when that participant has elected a survivor benefit.

H.4723 "C" FUNDS Rep. Loftis

This bill changes the name of a country transportation committee entitled to expend "C" Funds, to the Legislative Delegation Transportation Committee of the particular county (i.e., "Richland County Legislative Delegation Transportation Committee").

H.4724 EXEMPTIONS FROM BUDGET AND CONTROL BOARD

ACROSS-THE-BOARD REDUCTIONS Rep. Hinson

This bill exempts from State Budget and Control Board across-the-board reductions, amounts appropriated in the General Appropriations Act as salary supplements for county clerks of court, probate judges, sheriffs, registrars of deeds, county auditors, county treasurers, and county coroners. The bill also adds county coroners to the list of those county officers to whom the General Assembly shall appropriate annual salary supplements.

H.4735 MODULAR HOMES Rep. Cato

This bill provides standards which a single-family modular home manufactured after January 1, 2005, must meet in order to be certified for placement in this State. The bill also provides a sales tax exemption for sixty percent of the gross proceeds of the sale of a modular home.

H.4746 RETIREES' COST OF LIVING ADJUSTMENTS Rep. Huggins

This bill deletes the contingency which provides that cost-of-living adjustments in retirement allowances under the South Carolina Retirement System and the South Carolina Police Officers Retirement System may be paid only if the increased liabilities resulting from these adjustments do not require an increase in employer contributions to these systems.

H.4747 AUTHORIZATION FOR DSS FEES AND PENALTIES Rep. Simrill

This bill authorizes and provides for the Department of Social Services (DSS) to impose fees on licenses, permits, registrations, approvals, or certificates regulated by DSS. The bill also authorizes and provides for DSS to impose monetary penalties against an entity in violation of statutes or regulations pertaining to programs regulated by DSS.

H.4752 PROPERTY TAX Rep. Simrill

This bill provides that property tax on a mobile or manufactured home may not be collected by levy, warrant for distraint, or proceedings in court unless collection of delinquent tax was begun within two years after the assessment of the tax on the mobile or manufactured home. The bill also provides that if a moving permit is obtained for removing and demolishing a mobile or manufactured home, or otherwise rendering it impossible to use for its intended purpose, the home is exempt from current and delinquent property taxes, penalties, and fees, provided the applicant for the moving permit certifies that the relocation is for such final

disposition of the home and provided the applicant certifies the location to which the home will be removed for final disposition.

H.4757 OVERPAYMENTS TO RETIREES Rep. Koon

This bill provides that if a retired member of the South Carolina Retirement System or the South Carolina Police Officers Retirement System receives overpayment of benefits through no fraudulent act of the member, the system may not recoup from the retiree's benefit more than the total of overpayments received by the member in the twelve months preceding the date the system notified the member of the overpayment. The bill further provides that the repayment by the member may not exceed five percent of his revised monthly retirement allowance and must be over a period of at least one hundred twenty months in equal installments without interest or penalty.

H.4759 CONTRIBUTIONS TO HOLLINGS CANCER CENTER Rep. Miller

This bill allows and provides for taxpayers to contribute to the Hollings Cancer Center by designating an amount to be paid with the taxpayer's income tax return.

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